

**PERTAINING TO THE ADOPTION OF THE CALVERT COUNTY PUBLIC ACCESS
TO INFORMATION CHAPTER TO THE CALVERT COUNTY CODE**

WHEREAS, *General Provisions Article*, Section 4-201 of the Maryland Annotated Code authorizes and empowers the Board of County Commissioners of Calvert County, Maryland (hereinafter, the "Board of County Commissioners") to adopt reasonable rules or regulations that govern timely production and inspection of public records;

WHEREAS, the County Attorney, in coordination with the County Administrator's Office and all County departments, has recommended adoption of certain regulations intended to meet the requirements of the Maryland Public Information Act, Maryland Annotated Code, *General Provisions Article*, Section 4-201, *et seq.* and comply with the Public Information Act;

WHEREAS, a public hearing regarding this proposal was duly advertised in a County newspaper for two consecutive weeks before the public hearing as required by Section 5-103(c) of the Code and held on April 18, 2023 at which time the Board of County Commissioners received public comment; and

WHEREAS, upon due consideration of the comments of the public and staff and in furtherance of the public health, safety and welfare, the Board of County Commissioners finds that it is in the best interest of the public health, safety and welfare of the citizens of Calvert County, Maryland to approve, adopt, and enact a new Chapter 96 of the Calvert County Code governing the timely production and inspection of public records as set forth in Exhibit A, attached hereto and made a part hereof.

NOW, THEREFORE, BE IT ORDAINED that the Board of County Commissioners of Calvert County, Maryland hereby approves, adopts and enacts a new Chapter 96 of the Calvert County Code governing the timely production and inspection of public records as set forth in Exhibit A, attached hereto and made a part hereof.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Ordinance, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this Ordinance.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are hereby incorporated and adopted as if fully set forth.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that this Ordinance shall be effective upon recordation and publication of a fair summary.

DONE, this 18th day of April, 2023, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: 5

Nay: ØAbsent/Abstain: Ø

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND
Katie Brittain, Clerk
Earl F Hance, President
Mike Hart, Vice President

Approved for legal sufficiency:

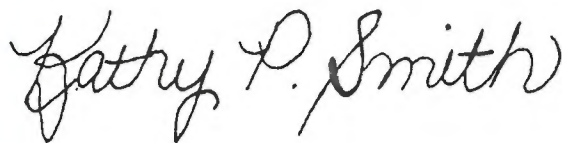

Mark C. Cox Sr.
John B. Norris, III, County Attorney
Catherine M. GrassoReceived for Record..... 4/10/23 20.....
at..... 4:22 o'clock..... P..... M. Same day
recorded in Liber KPS No. 71
Folio..... 99-102 COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.
Todd Ireland

Exhibit A

Chapter 96

PUBLIC INFORMATION ACT

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ARTICLE I

Public Information Act Requests

§ 96-1-101. Scope.

This Chapter sets procedures pursuant to the Public Information Act for filing and processing requests to the Calvert County Government for inspection and copying of public records of its Departments under the supervision and control of the Board of County Commissioners of Calvert County.

§ 96-1-102. Policy.

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- A) It is the policy of the Calvert County Government to facilitate access to the public records of the County, when access is allowed by law, by minimizing costs and time delays to applicants.
- B) In furtherance of this objective, each Director shall develop and implement a policy of proactive disclosure of public records that are available for inspection.
- C) Such policy may:
 - 1) Vary as appropriate to the type of public records and to reflect the staff and budgetary resources of the Department; and
 - 2) Include publication of public records on the County website, to the extent practicable, or publication of prior responses to requests for inspection.

§ 96-1-103. Definitions.

A) In this Chapter, the following terms have the meaning indicated.

B) Terms Defined.

- 1) "Act" means the Public Information Act, Md. Ann. Code, General Provisions Art., §§4-101 to §4-601.
- 2) "Applicant" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-101(b).
- 3) "Board" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-101(c).
- 4) "Copy" means any form of reproduction using photocopying machine or other reproduction technology, including a paper copy, an electronic copy, a printout, or an image.
- 5) "Custodian" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-101(d).
- 6) "Department" means the department, office, agency, board or commission of the County receiving a request to review a public record under the Act.
- 7) "Director" means the Director of the Department.
- 8) "Indigent" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-206(a)(2).
- 9) "Metadata" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-205(a).
- 10) "Official custodian" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-101(f).
- 11) "Person in Interest" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-101(g).
- 12) "PIA Coordinator" means the Department employee who is responsible for accepting requests for public records.
- 13) "Public Access Ombudsman" means the official appointed pursuant to Md. Ann. Code, General Provisions Art., Title 4, Subtitle 1B, to resolve disputes under the Act.
- 14) "Public record" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-101(k).
- 15) "Reasonable Fee" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-206(a)(3).
- 16) "Victim" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-356(a)(2).
- 17) "Victim's representative" has the meaning stated in Md. Ann. Code, General Provisions Art., §4-356(a)(3).
- 18) "Working day" means a day other than Saturday, Sunday, or a State or County holiday.

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§ 96-1-104. Director as Official Custodian. Unless otherwise designated, the Director is the Official Custodian of the public records of the Department.

§ 96-1-105. Who May Request Public Records. Any person may request to inspect or copy public records of the Department that has control of the record requested.

§ 96-1-106. Necessity for Written Request.

- A) An applicant shall submit a written request to inspect or copy a public record, except as provided in Section 96-1-106.B.
- B) The custodian may permit the requested inspection or copying without demanding a written request if:
 - 1) it is clear that the records are required to be disclosed; and
 - 2) the requested records are readily available.
- C) The custodian shall require a written request if:
 - 1) the custodian reasonably believes that the Act, or any other law, may prevent the disclosure of the record to the applicant; or
 - 2) that a written request will materially assist the custodian in responding to the request.

§ 96-1-107. Contents of Written Request. A written request shall:

- A) Be addressed to the custodian of the record;
- B) Contain the applicant's contact information;
- C) Reasonably identify, by brief description, the public record sought; and
- D) Any request for waiver of fees.

§ 96-1-108. Response to Request.

- A) If the custodian grants a request for inspection, the custodian shall produce the public record for inspection as follows:
 - 1) Immediately if the record requested is one designated by the custodian of that record as being available for immediate release;
 - 2) Within a reasonable time period, not to exceed thirty (30) days after the date of the request, if that period is needed to retrieve the public record and conduct any necessary review; or
 - 3) If the request is made by anyone other than by the person in interest and includes part of a 9-1-1 communications record that depicts a victim, not less than ten (10) working days from the submission of a request to the victim or victim's representative in accordance with Md. Ann. Code, General Provisions Art., §§4-356(c) for that part of the record.
- B) If the custodian reasonably believes that it will take more than ten (10) working days to produce the public record responsive to the applicant's request, the custodian shall indicate in writing or by electronic mail within ten (10) working days after receipt of the request:
 - 1) The amount of time that the custodian anticipates it will take to produce the public record;
 - 2) An estimate of the range of fees that may be charged to comply with the request for public records; and
 - 3) The reason why it will take more than 10 working days to produce the records.
- C) Denial of inspection.
 - 1) If the custodian decides to deny a request for inspection:
 - (a) The custodian shall do so:
 - (i) Within 30 days after the request, or

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- (ii) As soon as practicable following the tenth (10th) business day if the request is made by anyone other than by the person in interest and includes part of a 9-1-1 communications record that depicts a victim; and
 - (b) Immediately notify the applicant of the denial.
- 2) If a request is denied, the custodian shall provide the applicant, at the time of denial or within ten (10) working days of the request, a written statement that gives the reasons for the denial, including, for records denied pursuant to Md. Ann. Code, General Provisions Art., §§4-343, a brief explanation of:
 - (a) Why denial is necessary; and
 - (b) Why the harm from disclosure of the public record would be greater than the public interest in providing access to the information in the public record such that disclosure of the public record would be contrary to the public interest;
 - (c) The legal authority for the denial;
 - (d) Without disclosing the protected information, a brief description of the undisclosed records that will enable the applicant to assess the applicability of the legal authority for the denial; and
 - (e) Notice of the remedies available for review of the denial.
- 3) If inspection is denied pursuant to Md. Ann. Code, General Provisions Art., §§4-343, the custodian shall:
 - (a) Provide a brief explanation of why the denial is necessary;
 - (b) An explanation of why redacting information would not address the reasons for the denial; and
 - (c) The legal authority for the denial.
- D) If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within 10 working days after receipt of the request, notify the applicant:
 - 1) That the person does not have custody or control of the requested public record; and
 - 2) If the person knows:
 - (a) The name of the custodian of the public records; and
 - (b) The location or possible location of the public record.
- E) Any time limit imposed by paragraphs A through C may be extended:
 - 1) With the consent of the applicant, for an additional period of up to 30 days; and
 - 2) For the period of time during which a dispute initiated by the applicant is pending before the Public Access Ombudsman.

§ 96-1-109. Notice to and Consideration of Views of Person Potentially Affected By Disclosure.

- A. Unless prohibited by law, the custodian may provide notice of a request for inspection or copying of any public record of the Department to any person who, in the judgment of the custodian, could be adversely affected by disclosure of that public record.
- B. The custodian may consider the views of the potentially affected person before deciding whether to disclose the public record to an applicant.

§ 96-1-110. Public Record Destroyed or Lost. If the custodian knows that a requested public record of the Department has been destroyed or lost, the custodian promptly:

- A. Notify the applicant that the public record is not available; and
- B. Explain the reasons why the public record cannot be produced.

§ 96-1-111. Review of Denial.

- A. If the custodian denies a request to inspect or copy a public record of the Department, the applicant may file an action for judicial enforcement pursuant to Md. Ann. Code, General Provisions Art., §§4-362, without pursuing the remedies set forth in §§B and C of this Section.
- B. If the custodian charges a fee of more than \$350 under §§96-1-114 of this chapter, the applicant may, within 90 days after the date the fee is imposed, file a written complaint with the Board pursuant to Md. Ann. Code, General Provisions Art., §4-1A-05(a).
- C. The applicant and the custodian each may contact the Public Access Ombudsman to resolve, pursuant to Md. Ann. Code, General Provisions Art., Title 4, Subtitle 1B, a dispute relating to requests for public records.

§ 96-1-112. Disclosure Against Public Interest.

- A) Denial Pending Court Order.
 - 1) If, in the opinion of the Director, disclosure of a public record of the Department otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Director may temporarily deny the request and seek a court order allowing nondisclosure.
 - 2) The temporary denial shall be in writing.
- B) Circuit Court Review.
 - 1) Within 10 working days after the denial, the Director shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.
 - 2) Notice of the Director's complaint shall be served on the applicant in the manner provided for service of process by the Maryland Rules of Civil Procedure.

§ 96-1-113. Fees.

- A) The custodian may not charge a search or preparation fee for the first two (2) hours that an official or employee of the Department spends searching for and preparing a public record for inspection.
- B) Subject to the waiver provisions hereof, after the first two (2) hours, the custodian shall charge a fee equal to the unloaded, hourly rate of each employee that participates in the search and preparation of responsive records.
- C) The fee schedule for copying and certifying copies of public records is as follows:
 - 1) Copies.
 - (a) \$0.25 per page for black and white copies-8 ½ x 11 page.
 - (b) \$0.50 per page for color copies-8 ½ x 11 page.
 - (c) \$4.00 for each 18"x24" plat.
 - (d) \$6.00 for each 24"x36" plat.
 - (e) \$10.00 for each plat larger than 24"x36".
 - (f) Actual cost for electronic media, including thumb-drives.
 - 2) Certification of Copies. If a person requests that a copy of a public record be certified as a true copy, an additional fee of \$1.00 per page (or if appropriate, per item) shall be charged.
- D) Notwithstanding the foregoing, if the fee for copies or certified copies of any public record of the Department is specifically set by a law other than the Act or this Chapter, the custodian shall charge the prescribed fee.
- E) If the custodian cannot copy a public record within the Department, the custodian shall make arrangements for the prompt reproduction of the public record at public or private facilities outside the Department. The custodian shall:
 - 1) Collect from the applicant a fee to cover the actual cost of reproduction; or

- 2) Direct the applicant to pay the cost of reproduction directly to the facility making the reproduction.
- F) Before reproducing, scanning or duplicating a public record of the Department in response to a request, the custodian shall estimate the cost of reproduction and:
 - 1) Obtain the agreement of the applicant to pay the cost; or
 - 2) Require prepayment of all or a portion of the cost.
- G) Except as provided in paragraph of this regulation, the custodian may charge a reasonable fee for time that an official or employee of the Department spends:
 - 1) To search for requested public records; or
 - 2) Review requested public records for potential disclosure; and
 - 3) To prepare public records for inspection and copying.
 - 4) The custodian shall determine the fee under subsection (1) of this section by multiplying the employee's salary, prorated to an hourly basis, by the actual time attributable to the search for, review of, and preparation of public records for inspection and copying.
- H) Waiver or Reduction of Fee.
 - 1) The official custodian may waive or reduce any fee set under this regulation if:
 - (a) The applicant requests a waiver; and
 - (b) The custodian determines that the waiver or reduction is in the public interest; or
 - (c) The applicant is indigent and files an affidavit verifying the facts that support a claim of indigency.
 - 2) To determine whether the fee waiver is warranted, the custodian is guided by the following factors adopted in the Code of Federal Regulations for Freedom of Information Act Requests:
 - (a) Whether the subject of the requested Public Records concerns the identifiable operations or activities of the County government, with a connection that is direct and clear, not remote or attenuated;
 - (b) Whether the informative value of the information to be disclosed and whether the disclosure is likely to contribute to an understanding of government operations or activities;
 - (c) Whether disclosure will likely contribute to an understanding of the subject by a reasonably broad audience of persons interested in the subject; and
 - (d) Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.
- H) If the applicant requests that copies of a public record be mailed or delivered to the applicant or to a third party, the custodian may charge the applicant for the cost of postage or delivery.

§ 96-1-114. Time and Place of Inspection.

- A) An applicant may inspect any public record of the Department that the applicant is entitled to inspect during the normal working hours of the Department.
- B) The inspection shall occur where the public record is located unless the custodian, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.

§ 96-1-115. Process of Public Information Act Requests. Unless requested public record is one identified for immediate release, upon receipt of a Public Information Act request, the custodian shall:

- A) Gather the responsive documents.

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- B) Determine what, if any, records or information must be redacted pursuant to the respective section(s) of Md. Ann. Code, General Provisions Article.
- C) May consult with the County Attorney's Office regarding whether the redacted records or information redacted by the custodian complies with the terms and conditions of the respective section(s) of Md. Ann. Code, General Provisions Art.
- D) Once the County Attorney's Office has completed any review requested, they shall return the documents to the custodian with an opinion regarding the items proposed for redaction.
- E) Custodian is then responsible to contact the requestor and obtain pre-payment before disclosure or make arrangements for the requestor to review the documents.
- F) The custodian is responsible for ensuring that any redactions are completed prior to disclosure to any party, but shall retain the original and redacted records for its records.

§ 96-1-116. Public Record in Electronic Format.

- A) Except as provided in Sections C and D of this regulation, the custodian shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:
 - 1) The public record is in a searchable and analyzable electronic format;
 - 2) The applicant requests a copy of the public record in a searchable and analyzable electronic format; and
 - 3) The custodian is able to provide a copy of the public record, in whole or in part, in a searchable and analyzable electronic format that does not disclose information that is exempt from disclosure under the Act.
- B) The custodian shall provide a portion of the public record in a searchable and analyzable electronic format if:
 - 1) Requested by the applicant, and
 - 2) The custodian is able to do so by using the existing functions of the database or software program that contains the searchable and analyzable data.
- C) The custodian is not required to:
 - 1) Create or reconstruct a public record in an electronic format if the public record is not available in an electronic format; or
 - 2) Release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained.
- D) The custodian may remove metadata from an electronic document before providing the electronic document to an applicant by:
 - 1) using a software program or function; or
 - 2) converting the electronic document into a different searchable and analyzable format.

ARTICLE II**Correction or Amendment of Public Records**

§ 96-2-201. Scope. This Article sets forth the procedures under which a person in interest may request the correction or amendment of public records of the Calvert County Government.

§ 96-2-202. Who May Request. A person in interest may request that the Department correct or amend any public record that:

- A) The Department keeps; and
- B) The person in interest is authorized to inspect.

§ 96-2-203. Contents of Request.

- A) A person in interest shall make a request to correct or amend a public record in writing and may use a form provided by the Department.
- B) The request shall:
 - 1) Identify the public record to be corrected or amended;
 - 2) State the precise correction or amendment requested;
 - 3) State the reason for the correction or amendment; and
 - 4) Include a statement that, to the best of the requestor's belief, the public record is inaccurate or incomplete.

§ 96-2-204. Addressee. A request to correct or amend a public record shall be addressed to the custodian of the public record. If the custodian is unknown, the request may be addressed to the Director.

§ 96-2-205. Return of Nonconforming Request.

- A) The Department shall accept a request to correct or amend a public record when it is received if it reasonably complies with §§ 96-2-203 and 96-2-204 of this Chapter.
- B) If the request does not reasonably comply with §§ 96-2-203 and 96-2-204 of this chapter, the Department shall return the request to the requestor with:
 - 1) An explanation of the reason for the return; and
 - 2) A statement that, on receipt of a request that reasonably complies with §§96-2-203 and §§96-2-204 of this Chapter, the request will be accepted.

§ 96-2-206. Response to Request. Within 30 days after the Department receives a request for correction or amendment that reasonably complies with §§96-2-203 and §§96-2-204 of this Chapter, the custodian shall:

- A) Make the requested correction or amendment, and inform the requester in writing of the action; or
- B) Inform the requester in writing that the Department will not:
 - 1) Make the requested correction or amendment, and the reason for the refusal; or
 - 2) Act on the request because:
 - (a) The requester is not a "person in interest";
 - (b) The requester is not authorized to inspect the record; or
 - (c) Of any other reason authorized by law.

§ 96-2-207. Refusal of Request. If the Department refuses to make a requested correction or amendment, a person in interest may file with the Department a concise statement of the reasons for:

- A) The requested correction or amendment; and
- B) The person's disagreement with the refusal of the Department to make the correction or amendment.

§ 96-2-208. Requirements for Statement of Disagreement. The statement submitted under this section shall:

- A) Be on pages no larger than 8 ½ x11 inches in size;
- B) Use only one side of each page; and
- C) Consist of no more than 5 pages.

§ 96-2-209. Providing Statement of Disagreement. If a person in interest files a statement of disagreement concerning a public record under §§96-2-207 and §§96-2-208 of this Chapter, the Department shall provide a copy of the statement whenever the Department discloses the public record to a third party.